**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7100 OF 2005

Vijay Mahadeo Mirajkar. ..Petitioner.

Vs.

M/s. Karva Developers. ..Respondent.

Shri. Umesh Malkapure i/by R.V. More for the petitioner.

**CORAM : R.S. MOHITE,J.**
**DATED : 24.11.2005.**

**P.C.**

1. By this writ petition, the petitioner challenges an order dated 21.7.2005 passed by Jt. Civil Judge, J.D. Nashik on an application Exh.31 made on behalf of the original plaintiff.

2. The plaintiff had filed a suit for specific performance against the defendants on behalf of Karva Developers which was shown as Sole Proprietary concern managed by one Brijlal Kasturchand Karwa as a member of Hindu Undivided Family. The said Brijlal Karwa expired and there was a new karta of the Hindu Undivided Family and thus, application Exh.31 was made to amend the title of the plaint to bring on record the name of the new karta. It is argued before me that suit must abate. The Trial Court has held that there was no question of suit abating as the right to sue survives. I find no

fault in the impugned order because as per the provisions of Order 22 Rule 1, on the death of the plaintiff a suit does not abate and the right to sue survives. There is no substance in the petition. Hence, petition dismissed.

**(R.S. MOHITE, J.)**